

Message Text

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TO AMEMBASSY BONN PRIORITY

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PASS TO SCICON C. MCCLELLAND

E.O. 11652:N/A

TAGS: TECH GW

SUBJECT: PROPOSED PATENT ADDENDUM FOR NRC/BMI ARRANGEMENT

1. PATENT ADDENDUM.

2 FOR EVERY INVENTION WHICH IS PRODUCED OR DESIGNED DURING THE TERM AND IN PURSUANCE OR ON THE BASIS OF THIS TECHNICAL EXCHANGE CONCERNING COOPERATION IN THE AREA OF SAFETY OF NUCLEAR-ORIENTED INSTALLATIONS AND ENVIRONMENTAL PROTECTION BETWEEN THE NUCLEAR REGULATORY COMMISSION OF THE UNITED STATES (NRC) AND THE FEDERAL MINISTER OF THE INTERIOR (BUNDESMINISTER DES INNERN, BMI) OF THE FEDERAL REPUBLIC OF GERMANY, THE FOLLOWING APPLIES:

3. (1) WHEN THE INVENTION IS MADE USING INFORMATION WHICH HAS BEEN COMMUNICATED ON THE BASIS OF THIS EXCHANGE AGREEMENT BY ONE PARTY, THEIR CONSULTANTS OR THEIR CONTRACTORS, THE PARTY MAKING THE INVENTION ACQUIRES ALL RIGHTS, TITLE AND INTERESTS TO AND FOR SUCH INVENTION, DISCOVERY, PATENT APPLICATION OR PATENT IN ALL COUNTRIES, ALTHOUGH WITH THE UNCLASSIFIED

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OBLIGATION OF GRANTING THE OTHER CONTRACTING PARTY A TAX-

FREE, NOT EXCLUSIVE AND IRREVOCABLE LICENSE, ALSO INCLUDING RIGHT TO GRANTING SUBLICENSES, TO SUCH AN INVENTION, DISCOVERY, PATENT APPLICATION OR PATENT IN ALL COUNTRIES.

4. (1.2) THE CONTRACTING PARTIES HAVE AGREED THAT THIS ARRANGEMENT SHOULD ALSO INCLUDE PATENTS WHICH ARE TAKEN OUT BY THE EUROPEAN PATENT OFFICE AFTER THE EFFECTIVE DATE OF THE EUROPEAN PATENT AGREEMENT. IF DIFFICULTIES IN APPLICATION OF THIS PATENT AGREEMENT SHOULD OCCUR FOLLOWING THE EFFECTIVE DATE OF THE EUROPEAN PATENT AGREEMENT, IT FOLLOWS THAT EACH CONTRACTING PARTY CAN PROPOSE THOSE CHANGES WHICH ARE REQUIRED TO EFFECT ADJUSTMENT OF THE ABOVE CLAUSE.

5. (1.3) NO CONTRACTING PARTY MAY RESORT TO DISCRIMINATING MEASURES AGAINST CITIZENS OF THE OTHER CONTRACTING PARTY WITH RESPECT TO GRANTING ABOVENAMED LICENSES OR SUBLICENSES;

6. (1.4) THE CONTRACTING PARTIES FOREGO IN RELATIONSHIP WITH ONE ANOTHER THE REIMBURSEMENT FOR ALL COSTS ARISING TO THEM ESPECIALLY FROM OBLIGATION FOR PAYMENT OF REIMBURSEMENTS, PREMIUMS, CHARGES OR INDEMNIFICATIONS WITH RESPECT TO THE ORIGIN, ACQUISITION OR APPLICATION FOR PATENT RIGHTS WHICH ARE DRAWN UP OR PRODUCED DURING THE TERM OF THIS AGREEMENT AND AS A CONSEQUENCE OR BECAUSE OF THE PROGRAMS AND ACTIVITIES CONTAINED THEREIN; THIS IS ALSO VALID FOR REIMBURSEMENTS ACCORDING TO GERMAN LAW AND CONCERNING EMPLOYEE INVENTIONS. THE NRC FOREGOES MAKING CLAIMS AGAINST THE FEDERAL MINISTER OF THE INTERIOR ARISING FROM THE U.S. ATOMIC ENERGY ACT OF 1975 IN ITS CURRENT WORDING.

7. (2) THE CONTRACTING PARTIES AGREE TO DETERMINE JOINTLY THE PROCEDURES REQUIRED INDIVIDUALLY FOR THE PATENT LAW SPECIFICATIONS OF THIS AGREEMENT AND TO SOLVE ALL CASES NOT EXPRESSLY SETTLED ACCORDING TO THE PRINCIPLE OF EQUAL UTILITY FOR BOTH CONTRACTING PARTIES IN MUTUAL UNDERSTANDING.

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8. (3) IN THE CASE OF A LICENSE WHICH THE RECEIVING CONTRACTING PARTY GRANTS TO A THIRD PARTY, THE CONDITIONS TO WHICH THE RECEIVING CONTRACTING PARTY ARE LIABLE WITH RESPECT TO THIS LICENSE ARE ALSO MADE INCUMBENT ON THE THIRD PARTY. THE THIRD PARTY IS TO BE ESPECIALLY OBLIGED TO MAKE AVAILABLE INVENTIONS OR OTHER KNOWLEDGE WHICH HE ACQUIRES DURING EXERCISE OF THE LICENSE TO HIS GRANTOR IN ORDER THAT THESE INVENTIONS OR SPECIAL KNOWLEDGE CAN, IF

NECESSARY, BE UTILIZED WITHIN THE SCOPE OF THIS AGREEMENT.

9. (4) THE UTILIZATION OF DISCOVERIES IS UNINHIBITED,
MOREOVER, SUBJECT TO SPECIFICATIONS OF ARTICLE 6 OF THE
AGREEMENT. KISSINGER

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